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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/559,720 | 06/16/2006 | Qun Fan | HNDA2020.2 | 5514 |
| 45735 7590 10/30/2008 SENNIGER POWERS LLP (SMX) 100 NORTH BROADWAY 17TH FLOOR ST. LOUIS, MO 63102 | | | | |
| EXAMINER HAILEY, PATRICIA L | | | | |
| ART UNIT | | PAPER NUMBER | | |
| 1793 | | | | |
| NOTIFICATION DATE | | DELIVERY MODE | | |
| 10/30/2008 | | ELECTRONIC | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

uspatents@senniger.com

Office Action Summary

Application No.

10/559,720

Applicant(s)

FAN ET AL.

Examiner

PATRICIA L. HAILEY

Art Unit

1793

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 and 42-64 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 14, 17-23 and 42-64 is/are rejected.
- 7) ☒ Claim(s) 10-13, 15 and 16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB08)
Paper No(s)/Mail Date 03/17/06.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Applicants' Preliminary Amendment, filed on December 5, 2005, has been made of record and entered. In this amendment, claims 24-41 have been canceled, and new claims 42-64 have been added.

Claims 1-23 and 42-64 are now pending in this application.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. ***Claims 1-9, 14, 17-23, and 42-64 are rejected under 35 U.S.C. 102(b) as being anticipated by European Patent No. 0 164 200 (hereinafter "the European Patent").***

The European Patent teaches a platinum based amorphous metal alloy oxygen anode having the formula



wherein Pt is platinum, A can be, inter alia, W, Ti, and mixtures thereof, and D is B, C, Si, Al, Ge, P, As, Sb, Sn, and mixture thereof, "p" ranges from about 40 to 92, "a" ranges from about 0 to 40, and "d" ranges from about 8 to 60, with proviso that $p + a + d = 10$. See the Abstract of the European Patent, as well as page 5, lines 8-22.

The atomic values for Pt and A read upon Applicants' **claims 1-9, 14, 17-22, and 42-47, 49-54, 56-58, and 60-63.**

Regarding **claims 23, 48, 55, 59, and 64**, the European Patent teaches that the amorphous metal alloys, which can be either solid, powder, or thin film form, are "particularly suitable as coatings on substrate metals which are then employed as oxygen anodes in various electrochemical processes." See page 7, lines 3-5, 13-15, and 21-26 of the European Patent, the latter of which discloses exemplary substrate metals and non-metals, and further disclose that the substrate may be a semi-conductor material (considered to read upon the limitation "electrically conductive support", given that Applicants' claims do not define or exemplify said support).

In view of these teachings, the European Patent anticipates claims 1-9, 14, 17-23, and 42-64.

Allowable Subject Matter

3. *Claims 10-13, 15, and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.*

The following is a statement of reasons for the indication of allowable subject matter:

Although the European Patent teaches alloy compositions comprising platinum, titanium, and tungsten, this reference does not teach or suggest the limitations of claims 10-13, 15, and 16, regarding the respective atomic percentages of these elements.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PATRICIA L. HAILEY whose telephone number is (571)272-1369. The examiner can normally be reached on Mondays-Fridays, from 7:00 a.m. to 3:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo, can be reached on (571) 272-1233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group 1700 Receptionist, whose telephone number is (571) 272-1700.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/PATRICIA L. HAILEY/
Examiner, Art Unit 1793
October 24, 2008